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**MEMORANDUM OPINION**  
**& ORDER**

**By: Samuel G. Wilson**  
**United States District Judge**

Case 7:06-cv-00241-SGW-mfu Document 36 Filed 06/27/06 Page 1 of 3 Pageid#: 89

to avoid sleeping during the day.

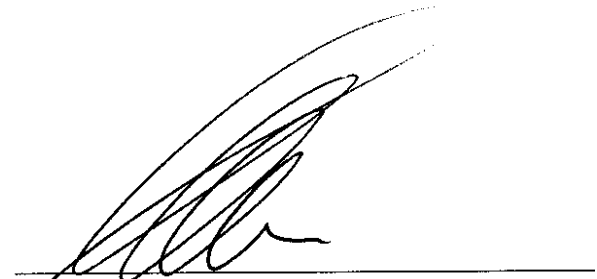
A district court should award preliminary injunctive relief sparingly and only when the party seeking relief has demonstrated actual, imminent, irreparable harm, as well as a likelihood of success on the merits. Rum Creek Coal Sales, Inc. v. Caperton, 926 F.2d 353, 360 (4th Cir. 1991); Manning v. Hunt, 119 F.3d 254, 263 (4th Cir. 1997); Direx Israel, Ltd. v. Breakthrough Medical Group, 952 F.2d 802, 812 (4th Cir. 1991) (citation omitted). Further, in order to demonstrate deliberate indifference to a serious medical need, Compton must show that the defendants knew of and disregarded an objectively serious medical need or risk of harm. Estelle v. Gamble, 429 U.S. 97, 104 (1976); Rish v. Johnson, 131 F.2d 1092, 1096 (4th Cir. 1997). A disagreement between an inmate and medical personnel over diagnosis or course of treatment is not a cognizable constitutional claim under the Eighth Amendment. Wright v. Collins, 766 F.2d 841, 849 (4th Cir. 1985); Estelle, 429 U.S. at 105-06. The court finds it unlikely that Compton will succeed on the merits of his deliberate indifference claim and, therefore, denies his motion for a preliminary injunction.

Compton has shared his sleep apnea history with medical staff, and they have responded by allowing him to sleep in the medical unit each night with his breathing machine for at least eight hours. Also, members of the medical staff have advised Compton to avoid sleeping during the day. Compton's assertion that he is entitled to unlimited or further access to the breaching machine amounts to nothing more than a disagreement with medical staff regarding course of treatment, which is not actionable. Moreover, Compton has not asked the medical staff to assess the presence or degree of his sleep apnea, rendering it all the more unlikely that Compton can demonstrate that the medical staff were aware of his medical issue but failed to respond with a

properly tailored course of treatment.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Compton's motion for a preliminary injunction is **DENIED**.

**ENTER:** This 27<sup>th</sup> of June, 2006.

  
United States District Judge